SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): November 30, 2016

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Metro Landfill, 2007-05493-MHK (Southwestern ditch and northeastern ditch)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Wisconsin  County/parish/borough: Milwaukee  City: Franklin
   Center coordinates of site (lat/long in degree decimal format): Lat. 42.84923° N, Long. -88.05565° W
   Universal Transverse Mercator: 16
   Name of nearest waterbody: Oak Creek
   Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040002) and Upper Mississippi Region (07120006)
   ☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
   ☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
   ☒ Office (Desk) Determination. Date: November 7, 2016
   ☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.
   There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
   There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.
   1. Waters of the U.S.: N/A
   2. Non-regulated waters/wetlands (check if applicable):¹
      ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The review area contains two intrastate wetlands (SW ditch and NE ditch). The SW ditch is connected via a culvert to Wetland NW1, which is a depressional basin and was previously determined to be isolated. Therefore, SW ditch and Wetland NW1 are connected as one wetland complex. The NE ditch is a shallow depressional basin with no inlets or outlets. Both wetlands were constructed as part of an existing landfill operation which is continually disturbed. These wetland do not appear on the Wisconsin Wetland Inventory maps and are not within a 100-year floodplain. The SW ditch is approximately 1,675 feet from the nearest jurisdictional tributary while NE ditch is approximately 2,010 feet away (tributary is located to the northwest). The NE ditch and the SW ditch/NW1 wetland complex are not bordering, contiguous or neighboring other waters of the U.S. Both SW ditch and NE ditch do not support a link to interstate or foreign commerce; are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that SW ditch and NE ditch are not regulated by the Corps under Section 404 of the Clean Water Act.

   ¹ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A
D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
- Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
- Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: SW ditch is 0.22 acre in size; NE ditch is 0.06 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):
- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands:

SECTION IV: DATA SOURCES.
A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:Redwing Ecological Services wetland delineation
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters’ study:
- U.S. Geological Survey Hydrologic Atlas:
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name:1:24K Quad: WI-Oak Creek
- USDA Natural Resources Conservation Service Soil Survey. Citation:Milwaukee County
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):Wisconsin Wetland Inventory
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
  or Other (Name & Date):Redwing Delineation photos
- Previous determination(s). File no. and date of response letter:Isolated JD letter for NW1 dated September 4, 2012
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):
B. ADDITIONAL COMMENTS TO SUPPORT JD: SW ditch and NE ditch are hydrologically isolated and have no surface connection to any water of the United States.
WETLAND TOTAL STUDY AREA

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LEGEND

PROPOSED LANDFILL EXPANSION STUDY AREA

- WETLAND LOCATION
- POND
- CULVERT
- DITCH
- SWALE
+ DP1 DATA POINT (PREVIOUS)
+ DP2 DATA POINT (AUGUST AND OCTOBER 2013)


SOURCE: BASE MAP PROVIDED BY EARTH TECHNOLOGIES; REVISED WATER/WETLAND LOCATION MAP PRINT DATE: 11-12-13